



POLICE DEPARTMENT

-----X
In the Matter of the Disciplinary Proceedings :
- against - : FINAL
Detective Joseph Conway : ORDER
Tax Registry No. 938259 : OF
Bronx Court Section : DISMISSAL
-----X

Detective Joseph Conway, Tax Registry No. 938259, having been served with written notice, has been tried on written Charges and Specifications numbered 2022-27543, dated March 30, 2023, and after a review of the entire record, having pleaded Guilty, Respondent is found Guilty as charged.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Detective Joseph Conway from the Police Service of the City of New York.

EDWARD A. CABAN
ACTING POLICE COMMISSIONER

EFFECTIVE: 7-14-23



POLICE DEPARTMENT

June 2, 2023

-----X
In the Matter of the Charges and Specifications :

- against - :

Detective Joseph Conway :

Tax Registry No. 938259 :

Bronx Court Section :

Case No.

2022-27543

-----X
At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Jeff S. Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Jamie Moran, Esq.
Department Advocate's Office
One Police Plaza, Room 402
New York, NY 10038

For the Respondent: John Arlia, Esq.
Wenger & Arlia, Esqs.
20 Vesey St., Suite 210
New York, NY 10007

To:

HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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CHARGES AND SPECIFICATIONS

1. Detective Joseph Conway, while on-duty and assigned to Emergency Service Unit Squad 1, on or about and between March 14, 2022 and May 16, 2022, on three (3) occasions, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Detective entered REI, a retail store, and intentionally returned less expensive items purporting them to be the correct items, thereby wrongfully receiving a financial benefit.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

Penal Law § 155.25

PETIT LARCENY

2. Detective Joseph Conway, while on-duty and assigned to Emergency Service Unit Squad 1, on or about and between March 14, 2022 and May 31, 2022, on three (3) occasions, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Detective, while in uniform, entered REI, a retail store, to conduct personal business. (*As amended*)

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

3. Detective Joseph Conway, while on-duty and assigned to Emergency Service Unit Squad 1, on or about May 31, 2022, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Detective, while in uniform, entered REI, a retail store, and attempted to return a less expensive item purporting it to be the correct item in an attempt to wrongfully receiving a financial benefit.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

Penal Law § 110/155.25

ATTEMPTED PETIT
LARCENY

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on May 15, 2023.

Respondent, through his counsel, entered a plea of Guilty to the charged misconduct.

Respondent called Dr. Stephen Wakschal and Sergeant Douglas Walden as witnesses, and testified in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having evaluated all of the

evidence in this matter, I recommend that Respondent be DISMISSED from the New York City Police Department.

SUMMARY OF EVIDENCE IN MITIGATION

On multiple occasions during a three-month period in the spring of 2021, Respondent purchased items from the REI website. After he received the merchandise, Respondent substituted similar but less expensive items, and placed them in the original packaging of the more expensive items. He then returned the substituted items, in person, to an REI store, where he received refunds on the higher purchase price. On three of these occasions, he was on duty and in uniform when he personally returned the items. The specific breakdown of the purchases and returns is as follows:

1. On March 9, 2022, Respondent purchased a bicycle cassette for \$487.73 (*see* Dept. Ex. 1, photograph of item); on March 14, he returned a cheaper item valued at approximately \$99, and received a full refund.
2. On May 4, 2022, Respondent purchased a bicycle handlebar for \$195.53; on May 9, he returned a cheaper item valued at approximately \$55 (*see* Dept. Ex. 3, photograph of item), and received a full refund.
3. On May 4, 2022, Respondent also purchased a Garmin watch for \$977.63; on May 16, he returned a cheaper used watch (*see* Dept. Ex. 2, photograph of item), and received a full refund.
4. On May 31, 2022, Respondent, while wearing the watch he had purchased on May 4, went to the REI store and attempted to return a second cheaper bicycle handlebar than the one that he had originally purchased on a prior occasion; the cashier discovered what Respondent was attempting, and the refund was denied. (Tr. 92-105)

Respondent testified that the time period when he was making the fraudulent returns was a "very rough time" for him, particularly regarding his relationship with his wife. Specifically,

after their daughter was born in March 2019. Respondent's wife suffered from postpartum depression. Respondent's long commute to and from work reduced his time at home, which his wife resented. In August 2021, their son was born prematurely, and had to remain for several weeks in the NICU, which caused additional strain on Respondent and his wife, who again suffered from postpartum depression. Respondent was unfaithful to his wife on one occasion, which his wife learned about. They tried attending counseling together, and then Respondent went on his own to try to deal with their problems, but early in 2022 divorce proceedings were commenced and Respondent moved out. It was a "very stressful" time for Respondent, as he was not able to see his children, and he was "just kind of at rock bottom." (Tr. 80-84, 111-12)

According to Respondent, it was in this context that he committed the misconduct in this case. Respondent testified that his actions here were a "slip of judgment," during an isolated time frame, and that he is not proud of the "mistakes" he made.¹ In November 2022, he began seeing a psychologist, Dr. Stephen Wakschal, with whom he discussed the stress of coping with a failed marriage, not being able to see his young children, and the demands of work in the Emergency Services Unit. Respondent has taken responsibility for his actions, and entered a guilty plea to petit larceny in Criminal Court on May 11, 2023; he agreed to pay restitution to REI, to perform 100 hours of community service, and to separate from the Department. Respondent asks that his 17 years of service to the Department be recognized, and that he be permitted to file for vested interest retirement. (Tr. 84-88)

Dr. Stephen Wakschal, a clinical psychologist, testified that Respondent began seeing him for psychotherapy sessions in November 2022, and remains under his care. Based on his

¹ Respondent also admitted that he wrongfully submitted a vaccination card to the Department which falsely stated he had been vaccinated, in order to comply with the Department's requirements at the time. That misconduct is the subject of separate charges, which Respondent's counsel and the Department Advocate's Office intend to resolve with a guilty plea. (Tr. 89-92)

time with Respondent. Dr. Wakschal concluded that Respondent suffered from anxiety, persistent worry, and depression during the time period where he committed the misconduct involving REI. Respondent came across to him as sincere and remorseful as he described his problems with his wife, including his infidelity. From their time together, it became apparent to the doctor that Respondent has a strong need for approval, which can lead to "moral injury" when he does not receive the approval or respect of the public he has sworn to serve. Dr. Wakschal testified that these stressors in Respondent's personal and professional life were not an excuse for his behavior, but they did contribute to Respondent's lapse in judgement, and to his aberrant and impulsive behavior. (Tr. 31-40, 57-60)

The defense offered into evidence Dr. Wakschal's notes from his 12 video sessions with Respondent (Resp. Ex. B). In those notes, Dr. Wakschal provides summaries of each session with Respondent. These summaries discuss Respondent's pending divorce, his relationship with his family, and the stressors and pressure that come with being a police officer. While there are no specific references to the incidents involving REI, Dr. Wakschal does mention in two separate summaries that Respondent's legal issues stem from recent lapses in judgement and impulsive behavior, and that Respondent was concerned with how this would affect his career going forward.

Sergeant Douglas Walden testified that he was Respondent's immediate supervisor at ESU for approximately nine years. He described Respondent as "consistent, reliable, expert at all his crafts in ESU." Walden referred to Respondent's character as "outstanding," and he cited multiple job examples where Respondent demonstrated his prowess as a "go-to guy." In early 2022, Walden noticed a difference in Respondent's behavior: Respondent appeared more quiet

and withdrawn than usual. At some point, Respondent informed Walden that he was getting separated from his wife and kids, which "racked" Respondent. (Tr. 64-69)

PENALTY

In order to determine an appropriate penalty, this tribunal, guided by the Department's Disciplinary System Penalty Guidelines, considered all relevant facts and circumstances, including potential aggravating and mitigating factors established in the record. Respondent's employment history also was examined. *See* 38 RCNY § 15-07. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

Respondent, who was appointed to the Department on July 11, 2005, has pleaded guilty to all three charges involving his theft from REI. The Department Advocate recommends a penalty of termination, while counsel for Respondent asks that his client be permitted to file for vested interest retirement.

The defense relies upon the testimony of Respondent regarding his mental state during the time in question, along with the supporting testimony of Dr. Wakschal and Sergeant Walden. Respondent explained that he was experiencing a great deal of stress, both personally and professionally. Dr. Wakschal testified credibly that from his many years of experience, it is reasonable to conclude that the stress in Respondent's life contributed to his aberrant and impulsive behavior in his dealings with REI. Sergeant Walden, who supervised Respondent for nine years, testified that he noticed a change in Respondent's behavior during the time period in question. The sergeant also described Respondent as an outstanding worker, one of the best he has supervised at ESU.

Nevertheless, it is extremely troubling that Respondent engaged in what was effectively a course of conduct to defraud REI for his own monetary benefit. This was not a situation where Respondent, on one occasion, impulsively shoplifted from a store. Rather, Respondent took the time and effort, on multiple occasions, to purchase specific items from REI, repackage similar but less expensive items, and then return them to the store for a refund on the higher price. Respondent's deceptive actions were repeated and calculated. Making matters worse, Respondent took advantage of his position with the Department to further his ruse, by returning the items to the store while he was on duty and in uniform.

Members of service must conduct themselves, both on duty and off duty, in a manner consistent with the Department's values and mission. A pension is a benefit accorded to members who uphold their oath by serving with integrity. It is not enough that Respondent was an expert at his craft during his time with ESU; with his actions here, Respondent irreparably compromised that integrity. While this Tribunal is sympathetic to Respondent's personal situation during the time period in question, the deliberate, repeated nature of Respondent's larcenous acts demonstrated an alarming inability to behave in a manner that is expected of a member of this Department. Taking into account the totality of the facts and circumstances in this matter, I recommend that Respondent be DISMISSED from the New York City Police Department.

APPROVED
Edward A. Caban
JUL 14 2023
EDWARD A. CABAN
ACTING POLICE COMMISSIONER

Respectfully submitted,

Jeff S. Adler
Jeff S. Adler
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: SUMMARY OF EMPLOYMENT RECORD
DETECTIVE JOSEPH CONWAY
TAX REGISTRY NO. 938259
DISCIPLINARY CASE NO. 2022-27543

Respondent was appointed to the Department on July 11, 2005. On his three most recent annual performance evaluations, he was rated "Exceptional" for 2019, 2020, and 2021. He has been awarded one Commendation, two medals for Meritorious Police Duty, and fourteen medals for Excellent Police Duty.

Respondent has no formal disciplinary history.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials